IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 22152 of 1994

Between:

M/S Sridhar Ice Factory rep. by its

Proprietor G.Shanker, son of Narsaiah

Aged 36 years, Occ: Proprietor of

Petitioner Ice Factory, r/o 1-1-186,

Suryapet, Nalgonda dist.

..... PETITIONER

AND

1.The Secretary, APSEB,Vidyut Soudha,

Somajiguda, Hyderabad.

2.The Chief Engineer, Electricity, Hyderabad

Zone, APSEB, Mint compound, Hyderabad.

3.The Superintending Engineer,Assessments (SPL),

IV floor,Room No.411,New Building,

Vidyut Souda, Hyderabad.

4.The Assistant Accounts Officer, Electricity

Revenue Office, APSEB,Suryapet,Nalgonda dt.

(R2 was dismissed for default vide Court Order dated 15-12-1994.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction particularly one in the nature of writ of Certiorari quashing the orders dated 15-6-1994 passed by the 3rd respondent vide D.No.2454/1994 and confirming the order of the 2nd respondent dated 24-11-1994 vide its Order D./No.4060/1994 by calling records and pass such orders.

Counsel for the Petitioner: MR.E.SAMBASIVA PRATAP

Counsel for the Respondent Nos.1, 3 and 4: SMT. M.VINOBA DEVI, STANDING COUNSEL FOR APSEB.

The Court made the following :

ORDER

Heard the learned counsel for the petitioner and also the Standing Counsel appearing on behalf of the 2nd respondent. The petitioner, which is an Ice factory filed this Writ Petition, inter alia seeking the writ of Certiorari challenging the orders dated
15-06-1994 making a demand towards the pilferage as confirmed in appeal by orders dated 24-11-1994 by the appellate authority.

The case of the petitioner is that in pursuance of the inspection made on 30-8-1993 proceedings have been initiated against the petitioner on the ground of pilferage and inter alia alleging that the meter box was not having seal, meter was stuck up, all the 3 CTS found hanging in air and all the screws at meter terminal block connecting the CT secondary terminals found loose. Ultimately after giving a show cause notice, final orders were passed by the Primary authority holding that the petitioner is guilty for such pilferage. It is the case of the petitioner that infact just two days before i.e., on 26-8-1993 there was a fire accident and therefore, there could not have been any such pilferage at all. In support of the same, the petitioner has filed a certificate issued by the Fire Department. However, the same was not accepted. In appeal, the appellate authority also considered the various pleas raised on behalf of the petitioner including the alleged fire accident. The same was not accepted and more so, in view of the contradictory statements given by the fire department and also other departments. Hence rejected the same.

In this Writ Petition, the petitioner submits that the authorities have not properly

considered that there was a fire accident and therefore, they could not have been any pilferage as such and even the certificate filed in support of the same has not been properly taken into consideration.

The learned Standing Counsel appearing on behalf of the respondent sought to repel the said contention.

Considering the submissions made on either side and perusal of record, the question that falls for consideration is whether there was any pilferage on the part of the petitioner in regard to energy?

There is no dispute to the fact that the petitioner is having service connection with the respondent herein and in pursuance of the inspection made on 30-8-1993, present proceedings have been initiated. It is the defence of the petitioner that as a result of fire accident that occurred on 26-8-1993 there could not have been any such pilferage. Certificate sought to be relied on by the petitioner which has been issued by the fire department infact goes to show that the cause of fire is only due to electric short circuit. Having regard to the fact that both the authorities have concurrently considered this aspect and rejected the theory of fire accident, more so, with a finding that there was no trace of any fire, any marks or smoke etc., such finding cannot be re-appreciated or gone into in exercise of power under Section 226 of the Constitution of India. Above all, curiously the petitioner is silent as to the date of re-connection or establishment of new meter as a consequent to any damage caused in the said fire accident. No explanation is also forthcoming from the petitioner's side as to why the said date is not mentioned at any stage of the proceedings. This itself would cause serious doubt about the alleged theory of fire accident. Hence I do not find any reasons in the Writ Petition.

The Writ Petition is, accordingly, dismissed. No order as to costs.

18-11-2004.

Hsd

Assistant Registrar

To,

1.The Secretary, APSEB,Vidyut Soudha,

Somajiguda, Hyderabad.

2.The Superintending Engineer,Assessments (SPL),

IV floor,Room No.411,New Building,

Vidyut Souda, Hyderabad.

3.The Assistant Accounts Officer, Electricity

Revenue Office, APSEB,Suryapet,Nalgonda dt.

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